HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 14933 OF 2006

DATED: 3.8.2006

Between:

M. Kishan Chand

… Petitioner

and

The Regional Joint Commissioner of
Endowments and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.14933 of 2006

ORAL ORDER:

A detailed chronology, analysis and determination of the petitioner's claim to being a lawful lessee of the 4th respondent Temple's mulgi bearing No.9-1-63, Station Road, Khammam, has been recorded in the judgment in W.P.No.15341 of 2003 dated 3.8.2006. It is not necessary to reiterate those facts or the chronology of the proceedings culminating in the order of the Dy. Commissioner, Endowments, dated 6.1.2003 declaring the petitioner to be an encroacher under the provisions of Section 83 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act').

In W.P.No.15341 of 2003, this court granted an interim order on 25.7.2003 in WPMP No.18988 of 2003, directing the respondents i.e. the Endowments Department and the Person-in-Management of the 4th respondent-Temple, not to interfere with the possession of the petitioner

regarding the mulgi, on condition that the petitioner deposits the rents regularly.

According to the petitioner, he was paying to the 4th respondent-Temple, rent on the basis of the de facto arrangement with the 4th respondent subsequent to the year 2000, regularly up to the year 2006. According to the counter of the 3rd respondent, the petitioner is due arrears of rent in an amount of Rs.6,13,750/- up to July 2006 after deduction of an amount of Rs.1,56,250/- deposited by him from 1.3.2000 to July 2006. There is thus a dispute between the petitioner and the respondents with regard to the quantum of the arrears. The petitioner calculates on the basis of the de facto and oral arrangement he had with the respondents. Respondents calculate on the basis of the order of the Commissioner, Endowments dated 25.2.2003, under which the petitioner was granted extension of lease period for 3 years from the year 2000 on the enhanced lease amount of Rs.10,000/- per month. At any rate, after 2003 there is no amount fixed either by the Commissioner's order dated 25.2.2003 or by any other process known to law. This dispute need not however be resolved in this writ petition.

Since the petitioner has already been declared an encroacher by the order of the competent Dy. Commissioner dated 6.1.2003, which this court found impeccable by the judgment dated 3.8.2006 in W.P.No.15341 of 2003 and which has also become final, the petitioner is liable to be evicted.

On the aforesaid analysis, the impugned order herein dated 6.7.2006 calling upon the petitioner to deliver vacant possession within 3 days from the date of receipt of the notice, failing which action would be taken under Section 84 (1) of the Act, suffers from no infirmity warranting interdiction under Art. 226 of the Constitution.

It is the petitioner's complaint, as urged by Sri Koka Raghava Rao, learned senior counsel for him, that the respondents have locked the premises and are not permitting him even to take out his own belongings from the premises in question. Responding to this, the learned Government Pleader for Endowments states that the concerned respondents would be advised to permit the petitioner to take out his belongings without prejudice to the respondents' right to proceed against the petitioner for recovery of any arrears of lease amounts due from the petitioner to the temple, in respect of its mulgi.

Recording the aforesaid statement and on a conclusion that the impugned order of the 3rd respondent dated 6.7.2006 suffers from no infirmity, the writ petition is disposed of. There shall be no order as to costs.

GODA RAGHURAM, J

Date: 3.8.2006

cvm